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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

NOTICE OF OPPOSITION

10-11-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

In the Matter of Application Serial No.
75/764,192 Published in the Official Gazette of
July 16, 2002

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PUBLICATIONS INTERNATIONAL, LTD. :

Opposer, :

v. :

LEAPFROG ENTERPRISES INC. BY CHANGE :
OF NAME KNOWLEDGE KIDS ENTERPRISES, INC. :

Applicant. :
-----X

Opposition No.:

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TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

PUBLICATIONS INTERNATIONAL, LTD., a corporation organized under the laws of the State of Illinois, with a place of business located at 7373 North Cicero Avenue, Lincolnwood, Illinois ("Opposer"), believes that it will be damaged by the registration of the mark LEAPFROG SCHOOLHOUSE for "educational toys, namely, electronic educational game machines and battery-operated learning units, namely battery-powered game units, all that each children spelling, reading, math, social studies, science and geography" in International Class 28

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shown in application Serial No. 75/764,192 filed by Leapfrog Enterprises, Inc. by Change of Name Knowledge Kids Enterprises, Inc. ("Applicant") and hereby opposes the same.

As grounds therefore, it is alleged that:

1. Opposer is now and for many years past has, among other things, been engaged in the business of publishing books and periodicals, including but not limited to children's books, and is one of the leaders in that industry in the United States.

2. Since long prior to July 1999, the filing date of the application herein opposed, Opposer adopted and used the LEAP FROG mark for and in connection with children's books. Opposer has prior use in interstate commerce in the United States of the LEAP FROG mark for and in connection with children's books and since the adoption and first use of the LEAP FROG mark as aforesaid, Opposer has continuously used and continues to use said mark for and in connection with the production, advertising, promotion, distribution and sale of children's books in interstate commerce in the United States.

3. The LEAP FROG mark is now being used and since its first use as aforesaid has been applied to children's books and the package materials, advertisements and/or product literature therefor. Products and materials so marked are now and have for many years been advertised, promoted, distributed, shipped, offered and widely sold in interstate commerce in the United States. By virtue of such long and extensive use in commerce, the LEAP FROG mark has come to be and is well and favorably known and of great value to Opposer, and in the mind of the trade and public, identifies Opposer' goods and services and distinguishes them from the goods and services of others.

4. Opposer owns the exclusive right at common law in the LEAP FROG mark for children's books and related goods and services, and all the business and goodwill symbolized by and associated with said mark in the United States.

5. By the application Serial No. 75/764,192 herein opposed, Applicant seeks to register the designation "LEAPFROG SCHOOLHOUSE" for "educational toys, namely, electronic educational game machines and battery-operated learning units, namely battery-powered game units, all that each children spelling, reading, math, social studies, science and geography."

6. Applicant's designation LEAPFROG SCHOOLHOUSE so closely resembles Opposer's previously used LEAP FROG mark as to be likely, when applied to Applicant's goods, to cause confusion, to cause mistake and to deceive with consequent injury to Opposer and the public.

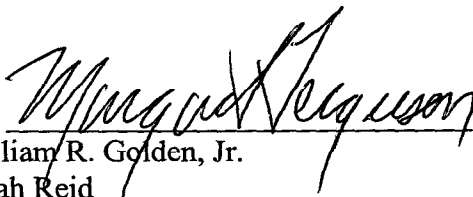
7. Opposer will be damaged by the registration sought by Applicant because such registration would support and assist Applicant in the confusing and misleading use of Applicant's mark and would give to Applicant color of exclusive statutory rights to such designation in violation and derogation of the prior and superior rights of Opposer.

WHEREFORE, Opposer believes that it will be damaged by the registration of Applicant's mark Serial No. 75/764,192 and prays that it be denied.

Please recognize as attorneys for Opposer William R. Golden, Jr., Sarah Reid, Margaret Ferguson, and Michelle M. Graham (members of the Bar of the State of New York) and the firm of Kelley Drye & Warren, 101 Park Avenue, New York, New York 10178. Please address all communications to William R. Golden, Jr. of said firm and address.

Dated: New York, New York
October 11, 2002

KELLEY DRYE & WARREN
Attorneys for Opposer

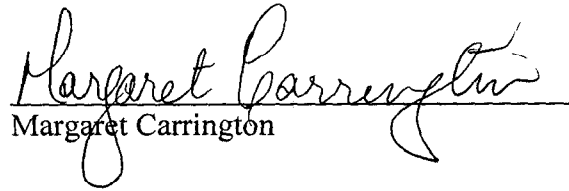
By: 
William R. Golden, Jr.
Sarah Reid
Margaret Ferguson
Michelle M. Graham
101 Park Avenue
New York, New York 10178
(212) 808-7800

CERTIFICATE OF MAILING

EXPRESS MAIL LABEL NO.: **ET874003567US**

DATE OF DEPOSIT: **October 11, 2002**

The undersigned hereby certifies that the foregoing NOTICE OF OPPOSITION and requisite fee are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513.


Margaret Carrington

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

101 PARK AVENUE

NEW YORK, NEW YORK 10178

(212) 808-7800

WASHINGTON, DC
TYSONS CORNER, VA
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TOKYO, JAPAN

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FACSIMILE

(212) 808-7897

www.kelleydrye.com

DIRECT LINE: (212) 808-7790 EMAIL:
mcarrington@kelleydrye.com

October 11, 2002

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VIA EXPRESS MAIL

BOX TTAB - FEE

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Re: Publications International, Ltd. v. Leapfrog Enterprises, Inc. By
Change of Name Knowledge Kids Enterprises, Inc.
Notice of Opposition to LEAPFROG SCHOOLHOUSE
Serial No. 75/764,192

Dear Sir or Madam:

On behalf of our client, Publications International, Ltd., we enclose the original and two copies of a Notice of Opposition in the above-captioned matter, together with check no. 466630 in the amount of \$300.00, the fee for filing such Notice of Opposition.

Kindly acknowledge receipt of same by stamping and returning the enclosed self-addressed postcard.

Sincerely,

Margaret Carrington
Margaret P Carrington
Trademark administrator

MC
Enclosures